



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. M. Trimble
First Assistant
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion No. O-3554

Re: Is a candidate for the office of trustee of a common school district who does not hold a poll tax receipt or a certificate of exemption qualified to serve as trustee?

Your written request for an opinion from this department has been received and considered. We quote from your request:

"A candidate for the office of trustee of a common school district became sixty years of age on February 20, 1941. He was elected as trustee of a common school district in Wilson County on April 5, 1941. This candidate had not paid his poll tax. Would he meet the qualifications of a trustee of a common school district, in view of the fact that he was over sixty years of age at the time he was elected?

"Article 2745, Revised Civil Statutes of Texas for 1925, provides that

"No person shall be trustee who cannot read and write the English language intelligibly, and who has not been a resident of such district for six months prior to his election. Providing no person shall be qualified as trustee unless he is a property taxpayer in the district to which he is elected and otherwise a qualified voter in said district. . ."

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"The trustee referred to above can qualify as a taxpayer in the district."

As indicated from the statute quoted in your request, no person shall be trustee unless, among other things required in the statute, that person is "a qualified voter in said district." From the facts given in your request, it is obvious that the candidate for the office of trustee of a common school district does not hold a poll tax receipt for the year 1940 paid on or before February 1, 1941.

Article 2955, of Vernon's Civil Statutes, gives the qualifications for voting as follows:

"Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he or she offers to vote, shall be deemed a qualified elector. The electors living in an unorganized county may vote at an election precinct in the county to which such county is attached for judicial purposes; provided that any voter who is subject to pay a poll tax under the laws of this State or ordinances of any city or town in this State, shall have paid said tax before offering to vote at any election in this State and holds a receipt showing that said poll tax was paid before the first day of February next preceding such election; and, if said voter is exempt from paying a poll tax and resides in a city of ten thousand inhabitants or more, he or she must procure a certificate showing his or her exemptions, as required by this title. . . ."

Article 2959, Revised Civil Statutes of Texas, 1925, provides:

"A poll tax shall be collected from every person between the ages of twenty-one and sixty years who resided in this State on the first day of January preceding its levy, Indians not

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taxed, persons insane, blind, deaf and dumb, and those who have lost a hand or foot, or permanently disabled, excepted. It shall be paid at any time between the first day of October and the first day of February following; and the person when he pays it, shall be entitled to his poll tax receipt, even if his other taxes are unpaid."

In our Opinion No. O-1230, this department held that in order for a person to be exempt from the payment of a poll tax, levied as of January 1, 1939, payable between October 1, 1939, and February 1, 1940, and for the person to be entitled to vote during the year 1940, he must have been sixty years of age, or over, before January 1, 1939, and, therefore, a person who became 60 years of age in October, 1939, must have duly paid a poll tax in order to be entitled to vote in a July, 1940, primary election. We are enclosing a copy of that opinion for your consideration.

Under the provisions of the above quoted statutes and the opinion referred to, we are of the opinion that the person inquired about is not entitled to an exemption from the payment of poll tax.

You are, therefore respectfully advised that, under the facts submitted by you in your request, a candidate for the office of trustee of a common school district is not qualified to serve as a trustee of such common school district for the reason that he is not a qualified voter in said district as required by the provisions of Article 2745, Revised Civil Statutes of Texas, 1925.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED MAY 22, 1941

FIRST ASSISTANT
ATTORNEY GENERAL

By *Harold McCracken*
Harold McCracken
Assistant

HM:LM

ENCLOSURE

